LEAD DEBATE ON A BILL FOR AN ACT TO PROVIDE FOR TAX INCENTIVE MANAGEMENT AND TRANSPARENCY

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1.0 Introduction

Mr President, My Distinguished Colleagues, It gives me great joy to lead the debate on this very crucial bill on tax incentive management and transparency; which is the very first bill that I have the privilege to sponsor. I want to thank you all my colleagues' distinguished senators and the Senate President for this privilege.

The bill was read the first time on Wednesday 9th October 2016 in this hallowed chamber. This bill should be seen as a contribution to the attainment of the noble goals and objectives we all agreed and set in the legislative agenda of the 8th Senate and in particular our passionate desire to block leakages and haemorrhages in our economy while helping government to enhance the efficiency and effectiveness of government tax policies, strengthen its tax collection and increase its tax base without harming the ease of doing business and to grow the Nigerian economy.

Tax incentives are defined as fiscal incentives administered by government agencies and investment promotion agencies (IPAs), such as waivers, income-tax holidays, exemptions, deductions, credits or exclusions from the tax base, to registered business entities. IPAs pertain to the various and quite numerous government entities created by law to promote investments in the country and to administer tax and nontax incentives in Nigeria such as the Nigerian Investment Promotion Council, Export Processing Zones Authority, Export Promotion Council, National Office for Technology Acquisition and Promotion, Nigerian Customs Service, Nigerian Immigration Service etc. to name a few. Registered business entities are basically those businesses registered with the IPAs for the purpose of deriving benefits from the incentives granted.

2.0 Background to the Bill on Tax Incentive Management and Transparency

Mr. President, distinguish colleagues', you will all recall that we took a motion on the rice import waivers on Thursday July 30, 2015 and subsequently set up an Ad-hoc committee under Distinguished Senator Adamu Aliero with the mandate to "Look into all waivers, concessions and grants and carry out a holistic review to determine the full recovery of all Government revenues related to these policies.

The Committee did a very marvellous and thorough job in which it discovered how government was losing ₦447, 451,296,687.87 from import duty waivers and concessions between 2011 and 2015. The Committee rightly noted that "there are large scale revenue leakages that robbed government of huge sums of money that would have been used for the provision of infrastructural development and social services". The extent to which these incentives are managed for the good of all, leaves much to be desired as attested to by the pointed findings of the Ad-hoc Committee.

The Ad-hoc Committee noted inter alia that:

i. Import waivers, concession and grants are good policies that help employment creation, Gross Domestic Product (GDP) contributions, economic linkages, small/medium enterprise development, skills development and technology acquisition;

ii. There is no synergy among Ministries, Departments and Agencies charged with the responsibilities of administering import duty waivers and grants. For example Federal Ministry of Finance, Nigeria Customs Service, Federal Ministry of Industries, Trade and Investments, Nigeria Investment Promotion Council, Federal Ministry of Agriculture and Rural Development and Federal Inland Revenue Service are not working together.

iii. That the current system of incentives management is discriminatory and uncoordinated;

iv. The Federal Government lost billions of Naira through concessions and import duty waivers granted to contractors to Federal and State Government projects; when such contractors had already charged the government for full project cost;

v. Many companies were granted multiple incentives of import duty waivers, concessions, pioneer incentives and grants within the same period leading to losses of revenue to the Federation

3.0 Why Tax Incentives Management and Transparency?

The Ad Hoc Committee noted above and made recommendations for correcting the lapses noted by it. Accordingly and notably it recommended among others that:

i. " The Federal Government should in line with international best practice, take appropriate steps to come up with a clear-cut policy on import duty waivers, concessions and grants
ii. That the current patronage system hampers fair economic competition
iii. That the Federal Government should address the issue of lack of coordination and collaboration amongst its various Ministries, Departments and Agencies (MDAs) involved in the administration of import duty waivers, concessions and grants.
iv. Federal Government should stop granting of multiple incentives of import waivers, concessions, pioneer incentives and grants all at the same time to the same beneficiaries; and
v. Sanctions should be applied for defaulters.

This bill is therefore chiefly motivated by the very factual and apt observations and recommendations of the Senate through the Committee on the need for legislative action on tax incentives management in Nigeria.

An Incentive is something that encourages you to do something. Hence, tax incentive is a generic term for all measures adopted by the government to deliberately manipulate the tax system to the advantage of the potential tax payer. Tax incentive is also a deliberate reduction or the total elimination of tax liability granted by the government in order to encourage a particular economic unit to act in some desirable manners which may be to invest more, produce more, generate employment, export more, sell more, import less and consume less.

Tax incentives by their nature represent the revenue cost of the government and may be a drain on the revenue of government if not well focused and properly managed. This is because government would have deprived itself of the revenue that would have been generated. This distinguished and hallowed Senate had empirically provided evidence to this effect when the Ad-hoc Committee revealed that the Federal Government was losing a whopping sum of N440 billion annually to rice import waivers alone.

Yet tax incentives are a highly desirable economic policy measures which explains why the government introduced a low tax regime which would help to develop priority sectors of the economy like agriculture, pioneer companies, and export processing zone, petroleum industries, hoteliers and solid minerals. Most tax experts agree that tax incentives are necessary in all circumstances as a stimulant for economic growth and industrial development. Tax incentives are special arrangements in the Nigerian tax laws to

- ✓ Attract, retain or increase investment in a particular sector,
- ✓ Stimulate growth in specific areas

✓ Assist companies or individuals carrying on identified activities.

The underlying basis is to ensure overall growth of the Nigerian economy and even development of all sectors.

Mr President, Distinguished Colleagues, as noted earlier tax incentives are part of a sound economic policy. However, good economic development policy is said to have three clear features for it to achieve the desirable goals of stimulating economic growth for national development. First, it must have clear goals and objectives which create context for accountability as regards the use of economic and development incentives; secondly, it must have financial incentives tools and limitations and thirdly, it must also have a clearly defined evaluation process which shows how the purpose of the tax incentives measures up to the established economic development criteria for which it was granted, the evaluation process is achieved only by a cost benefit analysis and an evaluation of the tax base impact both in terms of increase in tax value and the intended development impact of job creation and employment through the growth of business entities and industries.

4.0 Components of the Tax Incentive Management and Transparency Bill

The bill has 13 sections. Section 1 provides for the declaration of Federal Government on tax incentives management. Section 2 provides for registering of business entities who desires to benefit from the tax incentives. Sections 3 provides for the monitoring of Tax Incentives and the coordinated roles of all agencies of government.

Section 4 focuses on conduct of cost-benefit analysis on investment incentives to ensure benefits are delivered for each incentive granted by the Federal Government. Section 5 provides penalties for non-compliance with filing and reportorial requirements. Section 7 defines the role of the Joint Oversight Committee of the National Assembly and Section 8 provides for the development of rules and regulations governing tax incentives management.

Overall, the Tax Incentive Management and Transparency Bill have three salient features namely:

1. Filing of tax returns and submission of tax incentives reports by benefiting companies and business entities;
2. Monitoring of tax incentives; and
3. Conduct of a cost-benefit analysis on tax incentives.

The first feature on filing of tax returns and submission of tax incentives report is provided for in Section 4 of the Bill. The said provision sets out two requirements. First, all registered business entities are required to file their tax returns and pay their tax liabilities, on or before the deadline provided under the FIRS law as amended, using the electronic system for filing and payment of taxes to the FIRS. Second, all registered business entities are now required to file with their respective IPAs a complete annual tax incentives report of their income-based tax incentives, value-added tax and duty exemptions, deductions, credits or exclusions from the tax base, within 30 days from the deadline for filing of tax returns and payment of taxes. The IPAs are then obligated to submit to the FIRS the said annual tax incentives reports within 60 days from the end of the deadline for filing of the tax returns.

Noncompliance with the above filing and reportorial requirements shall subject the registered business entities to penalties to be imposed by the FIRS, namely: N100, 000 for the first violation, N500, 000 for the second violation, and cancellation of the registration of the registered business entity with the IPA for the third violation.

Section 5 of the Bill lays down the second feature on tax-incentives monitoring. Under the said section, the FIRS and the Nigerian Customs Service (NCS) are to submit to the Federal Ministry of Finance the following: (a) the tax duty incentives of registered business entities as reflected in their filed tax returns and import entries; and (b) actual tax and duty incentives as evaluated and determined by the FIRS. The FMOF shall maintain a single database for monitoring and analysis of tax incentives granted. For purposes of monitoring and transparency, the FMOF will submit to the Budget Office of the Federation, the aggregate data on a sectoral and per industry basis are the following:

i. The amount of tax incentives availed of by registered businesses
ii. The estimated claims of tax incentives in the previous year
iii. The programmed tax incentives for the current year and
iv. The projected tax incentives for the following year

All of this information will be very useful and critical in the preparation of the Medium Term Expenditure Framework and Fiscal Strategy Paper. Accordingly, it is expected that these data will be reflected on annual budget of expenditure and sources of financing. The budget office of the Federation is also expected to forward this information to the Joint National Assembly Oversight Committee which will monitor and ensure the proper implementation of the provisions of the bill.

As to the third and last feature, Section 6 of the Bill mandates the Nigerian Institute for Social and Economic Research (NISER) to conduct a cost-benefit analysis on the investment incentives to determine the impact of tax incentives on the Nigerian economy.

Based on the foregoing features; the Bill seeks to bring to businesses and the economy a measure of efficient management of tax incentives and transparency as it does not, in anyway, affect or control the tax incentives, which are now currently being enjoyed by registered business enterprises. The bill itself states that it shall not diminish or limit, in whatever manner, the amount of incentives that Investment promotion agencies may give, nor will it prevent, deter or delay the promotion and regulation of investments, processing of applications of registration, and evaluation of entitlement of incentives by these agencies. Also, the IPAs would no longer be required to submit applications for tax incentives to the FIRS for validation and modification.

5.0 Why you should support this bill

Mr. President, Distinguish Colleagues, you will agree with me that from the foregoing, we are poised to deliver yet again part of the very important things we promised to deliver to our dear citizens using the instrumentality of legislation.

This bill seeks to do the following:

1. Block revenue leakages and the haemorrhage of our economy;
2. Entrenched transparency and accountability in tax incentives;
3. Integrate and consolidate the management of tax incentives and remove arbitrariness;
4. Ensure that tax incentives truly deliver on the economic proposition for which they were granted; and
5. Promote sound economic management on a sustainable basis while guaranteeing the development and growth of businesses and industries' on a longer term.
6. Give the legislature a role in monitoring and oversighting tax incentives management for the benefit of the Federation

It is the candid projection that based on the facts revealed by the Senate Ad Hoc Committee on Import Duty Waivers, Concessions and Grants, this bill is capable of saving billions of Naira from unnecessary leakages while providing guarantee for getting the stated benefits for granting all tax incentives for the good of our economy.

6.0 Prayers:

Graciously support and approve that the Bill be read the second time.

7.0 Conclusion

Thank you for this privilege to lead the debate and to have your approval for the second reading of the Bill.